



[BILLING CODE 3290-F3]

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WT/DS455]

### WTO Dispute Settlement Proceeding Regarding Indonesia Importation of Horticultural Products, Animals and Animal Products

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (“USTR”) is providing notice that on January 10, 2013, the United States requested consultations with the Government of the Republic of Indonesia (“Indonesia”) under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”) concerning certain measures imposed by Indonesia on the importation of horticultural products, animals and animal products. That request may be found at [www.wto.org](http://www.wto.org), contained in a document designated as WT/DS455/1. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 14, 2013 to assure timely consideration by USTR.

**ADDRESSES:** Public comments should be submitted electronically at [www.regulations.gov](http://www.regulations.gov), docket number USTR-2013-0002. If you are unable to provide submissions at [www.regulations.gov](http://www.regulations.gov), please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

**FOR FURTHER INFORMATION CONTACT:** Arthur Tsao, Assistant General Counsel, Office of the United States Trade Representative, (202) 395-3150.

**SUPPLEMENTARY INFORMATION:** USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such a panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

### **Major Issues Raised by the United States**

On January 10, 2013, the United States requested consultations concerning certain measures imposed by Indonesia on the importation of horticultural products, animals and animal products into Indonesia. Indonesia subjects the importation of horticultural products, animals and animal products into Indonesia to non-automatic import licenses and quotas, thereby restricting imports of goods. In particular, Indonesia imposes an import licensing regime for horticultural products and for animal and animal products pursuant to which an importer must complete multiple steps prior to importing those products into Indonesia.

The legal instruments through which Indonesia imposes and administers these measures include but are not limited to the following instruments: Law of the Republic of Indonesia Number 13 of Year 2010 Concerning Horticulture; Regulation of the Minister of Agriculture Number 60/Permentan/OT.140/9/2012; Regulation of the Minister of Trade Number 30/M-DAG/PER/5/2012 Regarding Provisions on Import of Horticultural Products; Regulation of the Minister of Trade Number 60/M-DAG/PER/9/2012 Regarding Second Amendment of Regulation of the Minister of Trade Number 30/M-DAG/PER/5/2012 Regarding Provisions on Import of Horticultural Products; Law of the Republic of Indonesia Number 18/2009 on Animal Husbandry and Animal Health; Regulation of the Minister of Agriculture Number 50/Permentan/OT.140/9/2011 Concerning Recommendation for Approval on Import of Carcasses, Meats, Edible Offals and/or Processed Products Thereof to Indonesian Territory; and Regulation of the Minister of Trade Number 24/M-DAG/PER/9/2011 Concerning Provisions on the Import and Export of Animal and Animal Product. The legal instruments also include any amendments, related measures, or implementing measures

These licensing regimes have significant trade-restrictive effects on imports and are used to implement what appear to be WTO-inconsistent measures. The multi-step licensing process appears to be more administratively burdensome than absolutely necessary to administer the measure. The issuance of licenses appears to be delayed or refused by the Indonesian authorities on non-transparent grounds. The Indonesian licensing measures do not inform traders of the basis for granting licenses. The licensing regimes do not appear to be administered in a uniform, impartial and reasonable manner, because the measures are applied inconsistently and unpredictably.

Through these measures, Indonesia appears to have acted inconsistently with its obligations under the *General Agreement on Tariffs and Trade* (“GATT 1994”), the *Agreement on Agriculture* (“Agriculture Agreement”), and the *Agreement on Import Licensing Procedures* (“Import Licensing Agreement”). Specifically, the United States asserts that Indonesia’s measures appear to be inconsistent with the following provisions of the GATT 1994, the Agriculture Agreement, and the Import Licensing Agreement:

1. Articles X:3(a) and XI:1 of the GATT 1994;
2. Article 4.2 of the Agriculture Agreement; and
3. Articles 1.2, 3.2 and 3.3 of the Import Licensing Agreement.

#### **Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to [www.regulations.gov](http://www.regulations.gov), docket number USTR-2013-0002. If you are unable to provide submissions by [www.regulations.gov](http://www.regulations.gov), please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via [www.regulations.gov](http://www.regulations.gov), enter docket number USTR-2013-0002 on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled

“Submit a Comment” (For further information on using the [www.regulations.gov](http://www.regulations.gov) website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page).

The [www.regulations.gov](http://www.regulations.gov) website allows users to provide comments by filling in a “Type Comments” field, or by attaching a document using an “Upload File” field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comments” field.

A person requesting that information, contained in a comment that he submitted, be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted at [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. § 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter --

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted at [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and will be open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR-2013-0002, accessible to the public at [www.regulations.gov](http://www.regulations.gov).

The public file will include non-confidential comments received by USTR from the public regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from such a panel, the following documents will be made available to the public at [www.ustr.gov](http://www.ustr.gov): the United States’ submissions, any non-confidential submissions received from other participants in the dispute, and any non-confidential summaries of submissions received from other participants in the dispute. In the event that a dispute settlement panel is convened, or in the event of an appeal from such a panel, the report of the panel, and, if applicable,

the report of the Appellate Body, will also be available on the website of the World Trade Organization at [www.wto.org](http://www.wto.org). Comments open to public inspection may be viewed at [www.regulations.gov](http://www.regulations.gov).

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**Juan Millán,**  
**Assistant United States Trade Representative**  
**for Monitoring and Enforcement**

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